IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
FRIDAY THE TWENTY SIXTH DAY OF OCTOBER
TWO THOUSAND AND SEVEN

PRESENT
HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
&
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.3506 of 1997

Between:
P.Bathi Reddy

..... PETITIONER

AND
The Institution-Lokayukta &
Upa-Lokayukta of A.P. at Basheerbagh,
Hyderabad

.....RESPONDENTS

Counsel for the Petitioners : Shri T.Jagadish

Counsel for the Respondents : Shri M.V.S.Sureshkumar

HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
&
HON'BLE SHRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No.3506 of 1997

ORDER: (per Hon'ble Sri Justice C.V.Nagarjuna Reddy)

This writ petition is filed questioning the order dated 26.08.1996 of Upa-Lok Ayukta, Andhra Pradesh in Complaint No.1912 of 1994 whereby he rejected the objection raised by the petitioner as to the maintainability of the complaint filed against him and entertained the same for holding enquiry into allegations Nos.1, 2 and 4 mentioned in his order dated 10.05.1996.

One Akula Subbarao and some others sent a complaint against the petitioner who at the relevant time was working as Managing Director of A.S.M.Co-operative Sugar Factory, Palakole. The allegations pertained to drawing of TA and DA on the false ground of shifting office, family and goods etc. when the Upa-Lok Ayukta wanted to proceed with the enquiry into the complaint, the issue regarding his jurisdiction to entertain the complaint was raised on behalf of the petitioner. It was contended before Upa-Lok Ayukta that the area of operation of A.S.M. Co-operative Sugar Factory, Palakole, of which the petitioner was the Managing Director, does not extend to the entire district in which the Society is functioning. A further contention was also raised that the petitioner was not a person appointed for public service or appointed to the post in connection with the affairs of the State of Andhra Pradesh, and therefore, he is not amenable to the jurisdiction of Upa-Lok Ayukta under the provisions of Andhra Pradesh Lokayukta and Upa-Lokayukta Act, 1983 (hereinafter referred to as "the Act").

The Upa-Lokayukta after a detailed consideration of the objections, upheld the contention of the petitioner relating to the area of operation of the A.S.M.Cooperative Sugar Factory, Palakole by holding that its area of operation did not extend to the entire district of West Godavari. Consequently, he held that the Cooperative Society in which the petitioner was working does not fall within the purview of Sec.2 (k) (v) (5) of the Act. However, the Upa-Lokayukta rejected the contention of the petitioner that he does not fall with the definition of 'Officer' under Sec.2 (i) of the Act. He held that the petitioner was appointed to the post in connection with the affairs of the State of Andhra Pradesh and therefore, the complaint filed against him was maintainable under the provisions of the Act for being enquired into on merits. Feeling aggrieved by this order, the petitioner filed the present writ petition.

Sri T.Jagadish, learned counsel for the petitioner submitted that since the petitioner was initially appointed as a Cane Commissioner by the Government of India and has been subsequently appointed on tenure basis by the State of Andhra Pradesh under different appointment orders and being posted as Managing Director to different Cooperative Sugar Factories within the State of Andhra Pradesh, he does not fall within the definition of 'Officer' under Sec.2(i) of the Act. In support of his contention, the learned counsel relied upon the judgment of the Division Bench of this court in ***Rama Subba Reddy vs. Lokayukta***[1].

On the other hand, the learned standing counsel for the respondent submitted that the Upa-Lokayukta has assigned detailed reasons in coming to the conclusion that the petitioner falls within the definition of 'Officer' as he is appointed to the post in connection with the affairs of the State of Andhra Pradesh and that as the said order does not suffer from any jurisdictional error, the same is not liable to be interfered with.

From the above rival contentions, the short question that requires to be decided is whether the petitioner at the relevant point of time was

holding the post in connection with the affairs of the State of Andhra Pradesh?

Sec.2(i) of the Act defines 'Officer' as under:

> '**Officer**' means a person appointed to a public service or post in connection with the affairs of the State of Andhra Pradesh, but does not include a person holding a post carrying a minimum scale of pay of [rupees seven thousand four hundred and below of the Revised Scales of Pay, 1999 or the corresponding Revision of Scale of Pay as and when such revision takes place from time to time.]

In order to streamline the cooperative sugar factories, the Government framed rules and regulations governing appointment of technocrats and specialists as Managing Directors in exercise of its power conferred under Bye-Law 24 (d) of Bye-Laws of the Cooperative Sugar Factories. These rules and regulations were notified in G.O.Ms.No.331, dated 18.07.1985. Rule-5 deals with the method of recruitment and under Rule-7 Government is the Appointing Authority in respect of the Managing Directors in Cooperative Sugar Factories in the State of Andhra Pradesh. Under Rule-21, the Government shall have the right to terminate the services of Managing Directors by issue of three months' notice or three months' pay in lieu thereof.

A perusal of the record shows that the petitioner who was working as Managing Director of A.S.M.Cooperative Sugar Factory, Palakole prior to 11.11.1988 was served with three months notice of termination of his services and again he was selected and appointed afresh by the Government of Andhra Pradesh vide G.O.Rt.No.1154, Industries & Commerce (Sugar-II) Department, dated 11.11.1988.

The order dated 11.11.1988, under which the petitioner was appointed refers to G.O.Ms.No.331, dated 18.07.1985. From the afore mentioned rules, it is clear that the Government is the authority both for appointment as well as termination of the Managing Directors of the Cooperative Sugar Factories.

It is not the case of the petitioner that the Cooperative Sugar

Factories in general and those in which he worked in particular, belong to private sector and that the Government of the State has no control over them.

In our considered opinion the very fact that the Government of Andhra Pradesh made rules and regulations and has been making appointments to the posts of Managing Director of all the sugar factories in the State clinchingly establishes the State's Control over them. The petitioner, therefore, cannot possibly contend that he is not holding a post in connection with the affairs of the State of Andhra Pradesh.

The learned Upa-Lokayukta gave detailed reasons in coming to the conclusion that the petitioner is amenable to the jurisdiction of Upa-Lokayukta under the provisions of the Act, by holding the 'office', which falls under definition of Section 2 (i) of the Act.

As regards the judgment of this Court in ***Rama Subba Reddy vs. Lokayukta*** (1 supra) on which the learned counsel placed reliance, it has no relevance to this case for, in that case the employee was appointed as a paid secretary by a co-operative society and not by the State Government.

In our considered view, the reasoning of the learned Upa-Lokayukta is sound and the same does not call for interference in exercise of this Court's jurisdiction under Article 226 of the Constitution of India.

For the reasons afore mentioned, the Writ Petition is dismissed.

As a sequel to dismissal of the Writ Petition, WPMP No.4214 of 1997 is also dismissed.

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C.V.NAGARJUNA REDDY, J

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G.S.SINGHVI, CJ

Dated: 26.10.2007

Dsr

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[1] 1986 (2) ALT 438